

(b) Applicability to home schools

Nothing in this chapter shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this chapter.

(c) Rule of construction on prohibition of Federal control over nonpublic schools

Nothing in this chapter shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this chapter.

(d) Rule of construction on State and local educational agency mandates

Nothing in this chapter shall be construed to require any State educational agency or local educational agency that receives funds under this chapter to mandate, direct, or control the curriculum of a private or home school, regardless or¹ whether or not a home school is treated as a private school under state² law, nor shall any funds under this chapter be used for this purpose.

(Pub. L. 89–10, title VIII, § 8506, formerly title IX, § 9506, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1979; renumbered title VIII, § 8506, Pub. L. 114–95, title VIII, § 8001(a)(5), Dec. 10, 2015, 129 Stat. 2088, 2089.)

SUBPART 2—OTHER PROVISIONS

§ 7901. Maintenance of effort**(a) In general**

A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year, subject to the requirements of subsection (b).

(b) Reduction in case of failure to meet**(1) In general**

The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion by which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the local agency), if such local educational agency has also failed to meet such requirement (as determined using the measure most favorable to the local

agency) for 1 or more of the 5 immediately preceding fiscal years.

(2) Special rule

No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

(c) Waiver

The Secretary may waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

(1) exceptional or uncontrollable circumstances, such as a natural disaster or a change in the organizational structure of the local educational agency; or

(2) a precipitous decline in the financial resources of the local educational agency.

(Pub. L. 89–10, title VIII, § 8521, formerly title IX, § 9521, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, § 8521, and amended Pub. L. 114–95, title VIII, §§ 8001(a)(6), 8019, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7901, Pub. L. 89–10, title IX, § 9201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794, set forth short title of the Native Hawaiian Education Act, prior to the general amendment of former subchapter IX of this chapter by Pub. L. 107–110.

AMENDMENTS

2015—Subsec. (a). Pub. L. 114–95, § 8019(1), inserted “, subject to the requirements of subsection (b)” after “for the second preceding fiscal year”.

Subsec. (b)(1). Pub. L. 114–95, § 8019(2), inserted before period at end “, if such local educational agency has also failed to meet such requirement (as determined using the measure most favorable to the local agency) for 1 or more of the 5 immediately preceding fiscal years”.

Subsec. (c)(1). Pub. L. 114–95, § 8019(3), inserted “or a change in the organizational structure of the local educational agency” after “such as a natural disaster”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of this title.

§ 7902. Prohibition regarding State aid

A State shall not take into consideration payments under this chapter (other than under subchapter VII) in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

(Pub. L. 89–10, title VIII, § 8522, formerly title IX, § 9522, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980; renumbered title VIII, § 8522, and amended Pub. L. 114–95, title VIII, §§ 8001(a)(6), 8020, Dec. 10, 2015, 129 Stat. 2088, 2089, 2112.)

Editorial Notes

PRIOR PROVISIONS

A prior section 7902, Pub. L. 89–10, title IX, § 9202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat.

¹ So in original. Probably should be “of”.

² So in original. Probably should be capitalized.